

REMARKS

Claims 26-40 and 94-109 are pending in the application prior to entry of amendments submitted herewith. Claims 26-40 and 94-105 stand rejected. By amendment herewith, Claims 27 and 34 are being changed. None of the amendments introduce new matter, and all of the amendments are made without prejudice to or disclaimer or dedication of any subject matter, and a right is specifically reserved to file continuation and/or divisional applications claiming any subject matter disclosed in the application.

The amendments made to Claims 27 and 34 are for the purpose of making minor textual corrections, and are not narrowing and are not made for any reason related to patentability.

The Examiner has rejected Claims 26-40 and 94-105 on the ground of non-statutory obviousness-type double patenting in view of Claims 1-55 of U.S. Patent No. 6,761,909. To obviate this rejection, a copy of a Terminal Disclaimer is submitted herewith on behalf of RxKinetix, Inc., assignee owner of the application, along with a statement under 37 C.F.R. 3.73(b) evidencing the right of RxKinetix, Inc. to take such action.

The application is believed to be in condition for allowance and allowance of all pending claims is earnestly requested. If the Examiner believes that it would be helpful to discuss any issues with respect to this communication, the Examiner is respectfully invited to contact the undersigned at the telephone number provided below.

Respectfully submitted,

MARSH FISCHMANN & BREYFOGLE LLP

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